

REMARKS

Claims 1-14 remain in this application. Claims 1-14 are rejected. Claim 1 is amended herein to clarify the invention.

Applicants herein traverse and respectfully request reconsideration of the rejection of the claims and objection cited in the above-referenced Office Action.

The applicants and applicants' attorney appreciate the Examiner's granting of the telephone interview conducted on March 15, 2002, and extend their thanks to the Examiner for his time and consideration. Although no formal agreement was reached, the general discussion had regarding the differences between the claimed invention and the art of record was helpful in providing direction for the amendments made herein, as distinguishing over the cited references.

Claims 1-14 are rejected as obvious over Sagawa et al. (EP 0,903,169 A2) in view of Kosugi et al. (US 5,229,756) under 35 U.S.C. §103(a). The applicants herein respectfully traverse this rejection.

For a rejection under 35 U.S.C. §103(a) to be sustained, the differences between the features of the combined references and the present invention must be obvious to one skilled in the art.

It is respectfully submitted that a *prima facie* case of obviousness has not been established in the rejection of claims 1-14. "To establish a *prima facie* case of

obviousness, three basic criteria must be met. First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on the applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991)." MPEP §706.02(j) "Contents of a 35 U.S.C. §103 Rejection".

In the present instance, independent claim 1, as amended herein, recites in pertinent part the following:

a signal generating device retainable by a game player in a manner permitting transfer of at least one of a hitting motion and a swinging motion imparted thereto by said game player, the signal generating device including a signal generator including a sensor for sensing at least one of an acceleration and an impact of the signal generating device, said signal generator generating a signal in

response to said at least one of the hitting motion and the swinging motion when said at least one of said acceleration and said impact is sensed while said signal generating device is retained by the game player, **said signal being representative of a change in velocity of said signal generating device being moved by said game player**

As highlighted above, the claim language requires that the signal produced by the signal generator be representative of a change in velocity of the signal generating device retained by the game player and moved through space thereby. No such teaching or suggestion is present in either the Sagawa et al. or Kosugi et al. reference. Sagawa et al. admittedly lacks disclosure relating to a user-retainable signal generating device, and therefore offers nothing in the way of guidance to provide a user-retainable sensor which produces a signal representative of a change in velocity. The secondary Kosugi et al. reference is offered by the Examiner as allegedly supplementing this lacking disclosure, teaching the use of two hand-held grip input devices and right and left elbow sensors. Neither of these devices and sensors, however, produce signals representative of a change in velocity of motion imparted thereto by a user retaining them, as claimed in claim 1. Rather, only applied pressure is sensed by the hand grip input devices, and only a particular

degree of angular displacement is detected by the elbow sensors. As stated at column 4, lines 15-42, movement of the elbow sensors merely changes electrical resistance which can then be correlated to the angular displacement thereof. As such, no teaching is provided by either cited reference which suggests the provision of a sensor which is capable of producing a signal representative of a change in velocity, either produced by implementation of a swinging motion, jumping motion, etc., or by an impact following motion imparted to the sensor retained by the player.

The references, therefore, fail to teach or suggest all claim limitations of claim 1, as required for properly establishing a *prima facie* case of obviousness. Thus, it is respectfully submitted that rejected claim 1 is not obvious in view of the cited references for the reasons stated above. Claims 2-14 depend from claim 1 and therefore derive patentability at least in part therefrom, as well as for the additional recitations they contain. Reconsideration of the rejection of claims 1-14 and their allowance are respectfully requested.

Applicants respectfully request a two (2) month extension of time for responding to the Office Action. Please charge the fee of \$400 for the extension of time to Deposit Account No. 10-1250.

In light of the foregoing, the application is now believed to be in proper form for allowance of all claims and notice to that effect is earnestly solicited. Please charge any deficiency or credit any overpayment to Deposit Account No. 10-1250.

Respectfully submitted,

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